

(f) The Commission authorizes the General Counsel or the General Counsel's designee to make determinations under this section.

§ 388.112 Requests for privileged treatment of documents submitted to the Commission.

(a) *Scope.* Any person submitting a document to the Commission may request privileged treatment by claiming that some or all of the information contained in a particular document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, and should otherwise be withheld from public disclosure.

(b) *Procedures.* A person claiming that information is privileged under (a) of this section must file:

(1) For documents submitted in hard copy,

(i) A written statement requesting privileged treatment for some or all of the information in a document, and the justification for nondisclosure of the information;

(ii) The original document, boldly indicating on the front page "Contains Privileged Information—Do Not Release" and identifying within the document the information for which the privileged treatment is sought;

(iii) Fourteen copies of the document without the information for which privileged treatment is sought, and with a statement indicating that information has been removed for privileged treatment;

(iv) The name, title, address, telephone number, and telecopy information of the person or persons to be contacted regarding the request for privileged treatment of documents submitted to the Commission.

(2) For documents submitted on electronic media,

(i) A written statement requesting privileged treatment for some or all of the information on the electronic media, and the justification for nondisclosure of the information;

(ii) One copy of a complete filing on the electronic media marked "Contains Privileged Information—Do Not Release" and identifying on the electronic media only the information for which the privileged treatment is

sought with one paper copy also marked "Contains Privileged Information—Do Not Release";

(iii) One copy of the electronic media without the information for which privileged treatment is sought and with a statement that information has been removed for privileged treatment with fourteen paper copies without the information for which privileged treatment is sought; and

(iv) The name, title, address, telephone number and telecopy information of the person or persons to be contacted regarding the request for privileged treatment of documents submitted to the Commission.

(c) *Effect of privilege claim—*(1) *For documents filed with the Commission.* (i) The Secretary of the Commission will place documents for which privileged treatment is sought in accordance with paragraph (b)(1)(ii) of this section in a nonpublic file, while the request for privileged treatment is pending. By placing documents in a nonpublic file, the Commission is not making a determination on any claim for privilege. The Commission retains the right to make determinations with regard to any claim of privilege, and the discretion to release information as necessary to carry out its jurisdictional responsibilities.

(ii) The Secretary of the Commission will place the request for privileged treatment described in paragraph (b)(1) of this section and a copy of the original document described in paragraph (b)(1)(iii) of this section in a public file, while the request for privilege treatment is pending.

(2) *For documents submitted to Commission staff.* The notification procedures of paragraphs (d) (e) and (f) of this section will be followed by staff before making a document public.

(d) *Notification of request and opportunity to comment.* When a FOIA requester seeks a document for which privilege is claimed, the Commission official who will decide whether to make the document public will notify the person who submitted the document and give the person an opportunity (at least five days) in which to comment in writing on the request. A copy of this notice will be sent to the FOIA requester.

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(e) *Notification before release.* Notice of a decision by the Director, Office of External Affairs, the Chairman of the Commission, the General Counsel or General Counsel's designee, a presiding officer in a proceeding under part 385 of this chapter, or any other appropriate official to deny a claim of privilege, in whole or in part, will be given to any person claiming that information is privileged no less than five days before public disclosure. The notice will briefly explain why the person's objections to disclosure are not sustained by the Commission. A copy of this notice will be sent to the FOIA requester.

(f) *Notification of suit in Federal courts.* When a FOIA requester brings suit to compel disclosure of confidential commercial information, the Commission will notify the person who submitted documents containing confidential commercial information of the suit.

[Order 488, 53 FR 1473, Jan. 20, 1988, as amended at 53 FR 15032, Apr. 27, 1988; Order 448-A, 54 FR 47761, Nov. 17, 1989; Order 562, 58 FR 62521, Nov. 29, 1993; Order 597, 63 FR 5455, Feb. 3, 1998]

PART 389—OMB CONTROL NUMBERS FOR COMMISSION INFORMATION COLLECTION REQUIREMENTS

AUTHORITY: 44 U.S.C. 3501–3520.

§ 389.101 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This part collects and displays control numbers assigned to information collection requirements of the Commission by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980. This part fulfills the requirements of section 3507(f) of the Paperwork Reduction Act, which requires that agencies display a current control number assigned by the Director of OMB for each agency information collection requirement.

(b) *Display.*

18 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 1902–)
2.19	0058, 0015
2.55	0161

18 CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 1902–)
2.56a	0055
2.69	0060
2.75	0052
2.76	0051, 0052, 0055
2.77	0051, 0052, 0055
2.78	0066
2.79	0060
2.80	0128
Part 4 Subpart D	0073
Part 4 Subpart E	0058
Part 4 Subpart F	0058
Part 4 Subpart G	0115
Part 4 Subpart H	0115
Part 4 Subpart J	0115
Part 4 Subpart L	0058
Part 4 Subpart L	0115
Part 4 Subpart M	0136
4.30	0073
4.31	0073
4.32	0058, 0073, 0115, 0136
4.33	0073
4.34	0073
4.80	0073
4.81	0073
4.82	0073
Part 6	0068
Part 9	0069
11.3(c)	0136
11.3(d)	0136
11.4(b)	0136
11.16	0087
16.1	0058, 0115
16.14	0058, 0115
16.15	0058, 0115
16.16	0058, 0115
24.1	0079
Part 33	0082
Part 34	0043
Part 35 Subpart A	0096
35.12	0096
35.13	0096
35.26	0096
35.27	0096
35.30	0096
Part 45	0083
46.3	0114
46.6	0099
Part 101	0021, 0029
Part 116	0021
Part 125	0098
141.1	0021
141.2	0029
141.14	0106
141.51	0140
141.61	0024
Part 152	0116
Part 153	0062
Part 154	0052
154.38	0070
154.52	0070
154.61	0070
154.62	0070
154.63	0070
154.64	0070
154.65	0070
154.66	0070
154.67	0070
154.91	0055
154.92	0055
154.93	0055
154.94	0055
154.94(k)	0057